

1 Section 1. This act may be cited as the "Florida
2 Manufacturing Global Competitiveness Act."

3 Section 2. Legislative findings and purpose.--The
4 Legislature finds that a competitive manufacturing business
5 climate is important given that the manufacturing sector
6 contributes significantly to the economy of this state,
7 helping it to weather natural and manmade disasters; that the
8 development of free-trade agreements with the Americas will
9 allow the state to be the gateway to increased international
10 trade that will expand the opportunities for manufacturing
11 exports, add thousands of well-paying jobs in the state, and
12 secure Florida's place in emerging markets in the world
13 marketplace; and that with the potential for increasing
14 exports, an investment in manufacturing today will mean
15 significant long-term positive revenue streams for the state
16 tomorrow.

17 Section 3. Paragraphs (b) and (d) of subsection (5) of
18 section 212.08, Florida Statutes, are amended to read:

19 212.08 Sales, rental, use, consumption, distribution,
20 and storage tax; specified exemptions.--The sale at retail,
21 the rental, the use, the consumption, the distribution, and
22 the storage to be used or consumed in this state of the
23 following are hereby specifically exempt from the tax imposed
24 by this chapter.

25 (5) EXEMPTIONS; ACCOUNT OF USE.--

26 (b) Machinery and equipment used to increase
27 productive output.--

28 1. Industrial machinery and equipment purchased for
29 exclusive use by a new business in spaceport activities as
30 defined by s. 212.02 or for use in new businesses which
31 manufacture, process, compound, or produce for sale items of

1 | tangible personal property at fixed locations are exempt from
2 | the tax imposed by this chapter upon an affirmative showing by
3 | the taxpayer to the satisfaction of the department that such
4 | items are used in a new business in this state. Such purchases
5 | must be made prior to the date the business first begins its
6 | productive operations, and delivery of the purchased item must
7 | be made within 12 months of that date.

8 | 2. ~~a.~~ Industrial machinery and equipment purchased for
9 | exclusive use by an expanding facility which is engaged in
10 | spaceport activities as defined by s. 212.02 or for use in
11 | expanding manufacturing facilities or plant units which
12 | manufacture, process, compound, or produce for sale items of
13 | tangible personal property at fixed locations in this state
14 | are exempt from any amount of tax imposed by this chapter ~~in~~
15 | ~~excess of \$50,000 per calendar year~~ upon an affirmative
16 | showing by the taxpayer to the satisfaction of the department
17 | that such items are used to increase the productive output of
18 | such expanded facility or business by not less than 10
19 | percent.

20 | ~~b. Notwithstanding any other provision of this~~
21 | ~~section, industrial machinery and equipment purchased for use~~
22 | ~~in expanding printing manufacturing facilities or plant units~~
23 | ~~that manufacture, process, compound, or produce for sale items~~
24 | ~~of tangible personal property at fixed locations in this state~~
25 | ~~are exempt from any amount of tax imposed by this chapter upon~~
26 | ~~an affirmative showing by the taxpayer to the satisfaction of~~
27 | ~~the department that such items are used to increase the~~
28 | ~~productive output of such an expanded business by not less~~
29 | ~~than 10 percent.~~

30 | 3.a. To receive an exemption provided by subparagraph
31 | 1. or subparagraph 2., a qualifying business entity shall

1 | apply to the department for a temporary tax exemption permit.
2 | The application shall state that a new business exemption or
3 | expanded business exemption is being sought. Upon a tentative
4 | affirmative determination by the department pursuant to
5 | subparagraph 1. or subparagraph 2., the department shall issue
6 | such permit.

7 | b. The applicant shall be required to maintain all
8 | necessary books and records to support the exemption. Upon
9 | completion of purchases of qualified machinery and equipment
10 | pursuant to subparagraph 1. or subparagraph 2., the temporary
11 | tax permit shall be delivered to the department or returned to
12 | the department by certified or registered mail.

13 | c. If, in a subsequent audit conducted by the
14 | department, it is determined that the machinery and equipment
15 | purchased as exempt under subparagraph 1. or subparagraph 2.
16 | did not meet the criteria mandated by this paragraph or if
17 | commencement of production did not occur, the amount of taxes
18 | exempted at the time of purchase shall immediately be due and
19 | payable to the department by the business entity, together
20 | with the appropriate interest and penalty, computed from the
21 | date of purchase, in the manner prescribed by this chapter.

22 | d. In the event a qualifying business entity fails to
23 | apply for a temporary exemption permit or if the tentative
24 | determination by the department required to obtain a temporary
25 | exemption permit is negative, a qualifying business entity
26 | shall receive the exemption provided in subparagraph 1. or
27 | subparagraph 2. through a refund of previously paid taxes. No
28 | refund may be made for such taxes unless the criteria mandated
29 | by subparagraph 1. or subparagraph 2. have been met and
30 | commencement of production has occurred.

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1 4. The department shall adopt rules governing
2 applications for, issuance of, and the form of temporary tax
3 exemption permits; provisions for recapture of taxes; and the
4 manner and form of refund applications and may establish
5 guidelines as to the requisites for an affirmative showing of
6 increased productive output, commencement of production, and
7 qualification for exemption.

8 5. The exemptions provided in subparagraphs 1. and 2.
9 do not apply to machinery or equipment purchased or used by
10 electric utility companies, communications companies, oil or
11 gas exploration or production operations, publishing firms
12 that do not export at least 50 percent of their finished
13 product out of the state, any firm subject to regulation by
14 the Division of Hotels and Restaurants of the Department of
15 Business and Professional Regulation, or any firm which does
16 not manufacture, process, compound, or produce for sale items
17 of tangible personal property or which does not use such
18 machinery and equipment in spaceport activities as required by
19 this paragraph. The exemptions provided in subparagraphs 1.
20 and 2. shall apply to machinery and equipment purchased for
21 use in phosphate or other solid minerals severance, mining, or
22 processing operations ~~only by way of a prospective credit~~
23 ~~against taxes due under chapter 211 for taxes paid under this~~
24 ~~chapter on such machinery and equipment.~~

25 6. For the purposes of the exemptions provided in
26 subparagraphs 1. and 2., these terms have the following
27 meanings:

28 a. "Industrial machinery and equipment" means tangible
29 personal property or other property that has a depreciable
30 life of 3 years or more and that is used as an integral part
31 in the manufacturing, processing, compounding, or production

1 of tangible personal property for sale or is exclusively used
2 in spaceport activities. A building and its structural
3 components are not industrial machinery and equipment unless
4 the building or structural component is so closely related to
5 the industrial machinery and equipment that it houses or
6 supports that the building or structural component can be
7 expected to be replaced when the machinery and equipment are
8 replaced. Heating and air-conditioning systems are not
9 industrial machinery and equipment unless the sole
10 justification for their installation is to meet the
11 requirements of the production process, even though the system
12 may provide incidental comfort to employees or serve, to an
13 insubstantial degree, nonproduction activities. The term
14 includes parts and accessories only to the extent that the
15 exemption thereof is consistent with the provisions of this
16 paragraph.

17 b. "Productive output" means the number of units
18 actually produced by a single plant or operation in a single
19 continuous 12-month period, irrespective of sales. Increases
20 in productive output shall be measured by the output for 12
21 continuous months immediately following the completion of
22 installation of such machinery or equipment over the output
23 for the 12 continuous months immediately preceding such
24 installation. However, if a different 12-month continuous
25 period of time would more accurately reflect the increase in
26 productive output of machinery and equipment purchased to
27 facilitate an expansion, the increase in productive output may
28 be measured during that 12-month continuous period of time if
29 such time period is mutually agreed upon by the Department of
30 Revenue and the expanding business prior to the commencement
31 of production; provided, however, in no case may such time

1 | period begin later than 2 years following the completion of
2 | installation of the new machinery and equipment. The units
3 | used to measure productive output shall be physically
4 | comparable between the two periods, irrespective of sales.

5 | (d) Machinery and equipment used under federal
6 | procurement contract.--

7 | 1. Industrial machinery and equipment purchased by an
8 | expanding business that ~~which~~ manufactures tangible personal
9 | property pursuant to federal procurement regulations at fixed
10 | locations in this state are ~~partially~~ exempt from the tax
11 | imposed in this chapter ~~on that portion of the tax which is in~~
12 | ~~excess of \$100,000 per calendar year~~ upon an affirmative
13 | showing by the taxpayer to the satisfaction of the department
14 | that such items are used to increase the implicit productive
15 | output of the expanded business by not less than 10 percent.
16 | The percentage of increase is measured as deflated implicit
17 | productive output for the calendar year during which the
18 | installation of the machinery or equipment is completed or
19 | during which commencement of production utilizing such items
20 | is begun divided by the implicit productive output for the
21 | preceding calendar year. In no case may the commencement of
22 | production begin later than 2 years following completion of
23 | installation of the machinery or equipment.

24 | 2. The amount of the exemption allowed shall equal the
25 | taxes otherwise imposed by this chapter ~~in excess of \$100,000~~
26 | ~~per calendar year~~ on qualifying industrial machinery or
27 | equipment reduced by the percentage of gross receipts from
28 | cost-reimbursement type contracts attributable to the plant or
29 | operation to total gross receipts so attributable, accrued for
30 | the year of completion or commencement.

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1 3. The exemption provided by this paragraph shall
2 inure to the taxpayer only through refund of previously paid
3 taxes. Such refund shall be made within 30 days after ~~of~~
4 formal approval by the department of the taxpayer's
5 application, which application may be made on an annual basis
6 following installation of the machinery or equipment.

7 4. For the purposes of this paragraph, the term:

8 a. "Cost-reimbursement type contracts" has the same
9 meaning as in 32 C.F.R. s. 3-405.

10 b. "Deflated implicit productive output" means the
11 product of implicit productive output times the quotient of
12 the national defense implicit price deflator for the preceding
13 calendar year divided by the deflator for the year of
14 completion or commencement.

15 c. "Eligible costs" means the total direct and
16 indirect costs, as defined in 32 C.F.R. ss. 15-202 and 15-203,
17 excluding general and administrative costs, selling expenses,
18 and profit, defined by the uniform cost-accounting standards
19 adopted by the Cost-Accounting Standards Board created
20 pursuant to 50 U.S.C. s. 2168.

21 d. "Implicit productive output" means the annual
22 eligible costs attributable to all contracts or subcontracts
23 subject to federal procurement regulations of the single plant
24 or operation at which the machinery or equipment is used.

25 e. "Industrial machinery and equipment" means tangible
26 personal property or other property that has a depreciable
27 life of 3 years or more, that qualifies as an eligible cost
28 under federal procurement regulations, and that is used as an
29 integral part of the process of production of tangible
30 personal property. A building and its structural components
31 are not industrial machinery and equipment unless the building

1 or structural component is so closely related to the
2 industrial machinery and equipment that it houses or supports
3 that the building or structural component can be expected to
4 be replaced when the machinery and equipment are replaced.
5 Heating and air-conditioning systems are not industrial
6 machinery and equipment unless the sole justification for
7 their installation is to meet the requirements of the
8 production process, even though the system may provide
9 incidental comfort to employees or serve, to an insubstantial
10 degree, nonproduction activities. The term includes parts and
11 accessories only to the extent that the exemption of such
12 parts and accessories is consistent with the provisions of
13 this paragraph.

14 f. "National defense implicit price deflator" means
15 the national defense implicit price deflator for the gross
16 national product as determined by the Bureau of Economic
17 Analysis of the United States Department of Commerce.

18 5. The exclusions provided in subparagraph (b)5. apply
19 to this exemption. This exemption applies only to machinery
20 or equipment purchased pursuant to production contracts with
21 the United States Department of Defense and Armed Forces, the
22 National Aeronautics and Space Administration, and other
23 federal agencies for which the contracts are classified for
24 national security reasons. In no event shall the provisions
25 of this paragraph apply to any expanding business the increase
26 in productive output of which could be measured under the
27 provisions of sub-subparagraph (b)6.b. as physically
28 comparable between the two periods.

29 Section 4. Section 212.0805, Florida Statutes, is
30 repealed.

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1 Section 5. For the 2006-2007 fiscal year, the sum of
2 \$203,574 in recurring funds and the sum of \$19,372 in
3 nonrecurring funds are appropriated from the General Revenue
4 Fund to the Department of Revenue and four full-time
5 equivalent positions and associated salary rate of 137,955 are
6 authorized for the purpose of implementing this act.

7 Section 6. This act shall take effect July 1, 2006.

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9 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
10 COMMITTEE SUBSTITUTE FOR
11 SB 1206

12 Appropriates \$222,946 from the General Revenue Fund and four
13 positions and associated salary rate to the Department of
14 Revenue for reviewing tax exemption applications and screening
15 refund claims.

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